

The opinion in support of the decision being entered today is *not*
binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SHIGEO OZAWA

Appeal 2006-2173
Application 09/519,999
Technology Center, 1700

Decided: July 31, 2007

Before EDWARD C. KIMLIN, PETER F. KRATZ, and
JEFFREY T. SMITH, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

REQUEST FOR REHEARING

Appellant's request rehearing under 37 C.F.R. § 41.52 (a)(1) of
the Decision mailed November 2, 2006. That Decision sustained the
Examiner's rejection of claims 10-11, 13-18, 20-25, 27, and 29-33.

37 C.F.R. § 41.52 (a)(1) (2006) provides as follows:

Appellant may file a single request for rehearing within two months[from] the date of the original decision of the Board. No request for rehearing from a decision on rehearing will be permitted, unless the rehearing decision so modified the original decision as to become, in effect, a new decision, and the Board states that a second request for rehearing would be permitted. The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board. Arguments not raised in the briefs before the Board and evidence not previously relied upon in the brief and any reply brief(s) are not permitted in the request for rehearing except as permitted by paragraphs (a)(2) and (a)(3) of this section. When a request for rehearing is made, the Board shall render a decision on the request for rehearing. The decision on the request for rehearing is deemed to incorporate the earlier opinion reflecting its decision for appeal, except for those portions specifically withdrawn on rehearing, and is final for the purpose of judicial review, except when noted otherwise in the decision on rehearing.

Appellant asserts that separate arguments of patentability for claims 23, 24, 32 and 33 was provided in the Brief and Reply Brief and should be considered by the Board (Request 1-2).

The principal argument provided for claims 23, 24 and 32 in the Brief was the same as that which was presented for claim 20.¹ Specifically, Appellant's argument are directed to the arrangement of the components of the within the accommodation bag. The discussion

¹ Claim 20 was selected as representative of the rejected groups of claims.

provided on pages 5 to 6 of the Decision applies equally to the subject matter of claims 23, 24 and 32. Furthermore, a person of ordinary skill in the art would have sufficient skill to choose the appropriate location for the placement and attachment of the food containing bag within the outer bag. A person of ordinary skill in the art would also understand that a liquid releasing hole would be suitable for an accommodation bag to release any remaining liquid after the cooking process had been completed. Appellants have not substantiated their arguments with respect to the alleged unobviousness of the elements described in claims 23, 24, and 32 with any persuasive evidence.

Appellant in the Request for Rehearing did not contend there were errors in the stated reasons in support of the decision.

Claims 21 and 33 are rejected together over the combined teachings of Ooyama and Hoffman. For this ground of rejection Appellant did not provide arguments for claim 21 separate from claim 33. The substantive arguments appearing on pages 13 and 14 of the Brief regarding this basis of rejection were addressed in the Decision on pages 6-7. Appellant in the Request for Rehearing did not contend there were errors in the stated reasons in support of the decision.

In light of the foregoing and for the reasons expressed our decision, it is our determination that the Examiner has established a prima facie case of obviousness with respect to the argued claims on appeal.

CONCLUSION

We have granted Appellant's Request to the extent that we have reconsidered our decision of November 2, 2006. We have modified our decision to include the discussion of claims 23, 24, and 32.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(iv).

REHEARING GRANTED

tf/ls

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